

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

HIGH TECH HIGH INTERNATIONAL,

v.

PARENTS ON BEHALF OF STUDENT.

OAH Case No. 2014050946

ORDER DENYING MOTION TO
DISMISS

On September 25, 2014, Parents on behalf of Student filed a motion to dismiss because Parents have consented to a majority of the Individualized Educational Program and agreed to the proposed assessment plan at issue. High Tech High International has not filed an opposition.

APPLICABLE LAW

A party who files an adequate complaint in a dispute under the Individuals with Disabilities in Education Act is generally entitled to a hearing on his claims. (20 U.S.C. § 1415(f)(1)(A); Ed. Code, §§ 56043(s), 56501(b)(4).)

A stipulation is a voluntary agreement between adverse parties to litigation, and is generally interpreted and enforced according to the law of contracts. (*Harris v. Spinali Auto Sales, Inc.*(1966) 240 Cal.App.2d 447, 452-453; *Los Angeles City School Dist. v. Landier Inv. Co.* (1960) 177 Cal.App.2d 744, 750-751.)

DISCUSSION

A stipulation by a party to litigation is a voluntary act; it cannot be coerced by a tribunal. It is not known whether Parents' consent to the IEP and assessment plan at issue in High Tech's complaint is sufficient to resolve High Tech's concerns about having an enforceable IEP and assessment plan. Student's motion to dismiss is in effect stating that the parties have stipulated to the complaint's resolution. An order granting Student's motion would amount to the forcing of a stipulation upon an unwilling party. It would also leave High Tech with no legally enforceable promise. The motion to dismiss is therefore DENIED.

IT IS SO ORDERED.

DATE: October 3, 2014

/s/

PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings